IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

WP(C).No. 30970 of 2004(J)

PETITIONERS:

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1. **S.SUBAITHA, W/O.ABDUL RASHEED, AGED 50 YEARS, PADMA NAGAR, PUTHUVAL VEEDU, T.C.NO.44/1762(1) FORT, TRIVANDRUM.**

2. **RAHIMA BEEVI, W/O.SHAHUL HAMEED, PADMA NAGAR, PUTHUVAL VEEDU, T.C.NO.44/1762 (JU), FORT, TRIVANDRUM.**

BY ADV. SRI.R.S.KALKURA
SRI.FAIZAL P.LATHEEF
SRI.M.S.KALESH
SMT. SARIN M.R.
SMT. PRATHIBHA

RESPONDENTS:

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1. **OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS,TRIVANDRUM.**

2. **TRIVANDRUM CORPORATION, REPRESENTED BY ITS SECRETARY, CORPORATION BUILDING, TRIVANDRUM.**

3. **P.K.CHANDRASEKHARAN PILLAI, T.C.NO.28/2559, PANAMOODU LANE, SOUTHERNSIDE OF AYURVEDA COLLEE, TRIVANDRUM.**

4. **STATE OF KERALA, REPRESENTED BY THE SECRETARY, LOCAL SELF GOVERNMENT, THIRUVANANTHAPURAM.**

BY ADV. SRI. N. NANDAKUMARA MENON, SC, TVM CORPN for R2
BY GOVERNMENT PLEADER for R1 & R4

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE LICENCE FEE ACCEPTED BY THE 2ND RESPONDENT FOR THE YEAR 1983-84 DTD. 9/02/1983.

EXT.P2: COPY OF THE PROFESSIONAL TAX ACCEPTED FROM THE PETITIONER IN RESPECT OF THE BUILDING BY THE 2ND RESPONDENT DTD. 9/2/83.

EXT.P3: COPY OF THE NOTICE DTD. 8/01/1994 OF THE TAHASILDAR.

EXT.P4: COPY OF THE JUDGMENT DTD. 23/06/1997 IN OS.NO.132/1996.

EXT.P5: COPY OF THE JUDGMENT IN A.S.NO.201/1997.

EXT.P6: COPY OF THE FIR IN CRIME NO.459/1997 BEFORE THE FIRST CLASS MAGISTRATE COURT, TRIVANDRUM.

EXT.P7: COPY OF THE ORDER DTD. 11/07/1997 PASSED BY THE REVENUE DIVISIONAL OFFICER.

EXT.P8: COPY OF THE NOTICE DTD. 11/09/1997.

EXT.P9: COPY OF THE JUDGMENT DTD. 23/03/1998 IN CRL.M.C.NO. 3347/1997.

EXT.P10: COPY OF THE ORDER DTD. 20/05/1998 OF THE SUB DIVISIONAL MAGISTRATE, TRIVANDRUM.

EXT.P11: COPY OF THE MAHAZAR PREPARED INDICATING HANDING OVER POSSESSION OF THE PROPERTY TO THE PETITIONERS ON 2/06/1998.

EXT.P12: COPY OF THE ORDER DTD. 24/12/1998.

EXT.P13: COPY OF THE JUDGMENT DTD. 2/06/2000 IN O.P.NO.336/2000M.

EXT.P14: COPY OF THE ORDER DTD. 13/03/2001 ISSUED BY THE SECRETARY, LOCAL SELF GOVERNMENT.

EXT.P15: COPY OF THE JUDGMENT DTD. 4/09/2003 IN OS.NO.868/1998 BEFORE THE MUNSIFF'S COURT, THIRUVANANTHAPURAM.

EXT.P16: COPY OF THE LETTER DTD. 15/11/2000 ALONG WITH PROCEEDINGS OF THE KERALA STATE HOUSING BOARD.

EXT.P17: COPY OF THE JUDGMENT DTD. 23/03/2001.

EXT.P18: COPY OF THE JUDGMENT IN O.P.NO.23615/2001 DTD. 8/02/2002.

EXT.P19: COPY OF THE FIR IN CRIME NO.79/2002 DTD. 3/03/2002.

EXT.P20: COPY OF THE COMPLAINT SUBMITTED BY THE 3RD RESPONDENT DTD.1/06/2001.

EXT.P21: COPY OF THE ORDER DTD. 10/08/2004 IN O.P.NO.2081/2001.

EXT.P22: COPY OF THE NOTICE DTD. 20/08/2004.

EXT.P23: COPY OF THE COUNTER SUBMITTED BY THE PETITIONER IN EXT.P22.

EXT.P24: COPY OF THE ORDER DTD. 22/09/2004 ISSUED BY THE CORPORATION AUTHORITIES.

EXT.P25: COPY OF THE IDENTITY CARD OF THE 2ND PETITIONER AND HER HUSBAND.

EXT.P26: COPY OF THE RESIDENCE CERTIFICATE ISSUED BY THE VILLAGE OFFICER VANCHIYOOR.

EXT.P27: COPY OF THE PETITION DTD. 20/02/2006 AND THE ORDERS PASSED BY THE AUTHORITIES.

EXT.P28: COPY OF THE REPORT OF TAHSILDAR DTD. 06/01/2006.

EXT.P29: COPY OF THE ORDERS PASSED BY THE REVENUE ADALAT DTD. 03/01/2006.

/TRUE COPY/

P.S.TO JUDGE

KSS

PIUS C. KURIAKOSE, J.

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W.P.(C)No.30970 OF 2004

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DATED THIS THE 24TH SEPTEMBER, 2007

J U D G M E N T

The order of stay presently passed will continue for two months from today. However, since it is seen that the impugned order is an order under Section 406(3) directing demolition of a construction put up by the petitioner, I dispose of the Writ Petition relegating the petitioner to statutory appellate remedies. If the Tribunal receives an appeal within one month from today, the Tribunal will entertain the appeal excluding the time during which this Writ Petition was pending before this Court from the reckoning for the purpose of limitation and dispose of the appeal in accordance with law.

(PIUS C.KURIAKOSE, JUDGE)

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